

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSEPH R. GALE # 420395,

Plaintiff/Counter-Defendant,

No. 06-CV-15710-DT

vs.

Hon. Gerald E. Rosen

GENERAL MOTORS,

Defendant/Cross and
Counter-Plaintiff,

and

MICHIGAN STATE TREASURER,

Defendant/Cross-Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
AND GRANTING DEFENDANT/CROSS AND COUNTER-PLAINTIFF
GENERAL MOTORS' MOTION FOR DECLARATORY JUDGMENT

At a session of said Court, held in the
U.S. Courthouse, Detroit, Michigan
on March 24, 2008

PRESENT: Honorable Gerald E. Rosen
United States District Judge

This Section 1983 prisoner civil rights matter having come before the Court on the December 27, 2007 Report and Recommendation of United States Magistrate Judge Steven D. Pepe recommending that the Court grant Defendant/Cross and Counter-Plaintiff General Motors' motion for declaratory judgment; and no timely objections having been filed; and the Court having reviewed the Magistrate Judge's Report and Recommendation, and the

Court's entire file of this action, and having concluded that, for the reasons stated in the Report and Recommendation, General Motors' motion should be granted; and the Court being otherwise fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation of December 27, 2007 [Dkt. # 50] be, and hereby is, adopted by this Court.

IT IS FURTHER ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, Defendant/Cross and Counter-Plaintiff General Motors' Motion for Declaratory Judgment [Dkt. # 16] is hereby GRANTED. Accordingly,

IT IS FURTHER ORDERED that the Orders, Notices and Michigan State Treasurer's requests to General Motors and/or the GM Hourly Rate Employees Pension Plan (or its administrator) under SCFRA are hereby declared PREEMPTED by ERISA and void, to the extent the Orders, Notices and/or SCFRA directs GM and/or the Pension Plan to send or make payments of Plaintiff's Pension Plan benefits to any address or account other than as designated by the Plaintiff who is the Participant under the terms of the Plan.

IT IS FURTHER ORDERED that any Action or Order (including the Notices) which the State of Michigan may seek in the future for payments or reimbursements by GM and/or the Pension Plan (or its administrator) under SCFRA is hereby declared PREEMPTED by ERISA and void to the extent that any such Order and/or SCFRA either (1) directs GM and/or the Pension Plan (or its administrator), or directs a correctional facility Warden (or his or her representative) to direct GM and/or the Pension Plan (or its administrator), to send

or make payments of Plaintiff's Pension Plan benefits to any address or account other than as designated by the Plaintiff who is the Participant under the terms of the Pension Plan, or (2) otherwise orders GM and/or the Pension Plan (or its administrator) to make surrogate payments, reimbursements or pay damages to or on behalf of the State of Michigan for Plaintiff's Pension Benefits for Plaintiff's Pension Benefits not sent to Plaintiff's prison address.

IT IS FURTHER ORDERED that the State of Michigan is precluded from attempting to enforce any Order and/or Notice to GM and/or the Pension Plan (or its administrator) and any future similar Orders and/or Notices by seeking orders of contempt against GM and/or the Pension Plan (or its administrator) to the extent such enforcement efforts would run contrary to this Court's rulings as stated hereinabove.

SO ORDERED.

s/Gerald E. Rosen
Gerald E. Rosen
United States District Judge

Dated: March 24, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 24, 2008, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager